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JOHN T. FEY, Clerk

IN THE

Supreme Court of the United States

October Term, 1957.

No. 557

RAILWAY EXPRESS AGENCY, INCORPORATED
Plaintiff-Appellant,

v.

UNITED STATES OF AMERICA, and INTERSTATE COMMERCE COMMISSION,
Defendants-Appellees,

and

UNITED PARCEL SERVICE, INC.,
Intervening-Defendant-Appellee.

MOTION TO DISMISS APPEAL UNDER RULE 14(2) OF THE REVISED RULES OF THE SUPREME COURT OF THE UNITED STATES.

BERNARD G. SEGAL,
IRVING R. SEGAL,
S. HARRISON KAHN,
JEROME J. SHESTACK,
Attorneys for Intervening-Defendant-Appellee.

Of Counsel:
SCHNADER, HARRISON, SEGAL & LEWIS,
1719 Packard Building,
Philadelphia 2, Pennsylvania.

October 16, 1957.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1957.

No.

RAILWAY EXPRESS AGENCY, INCORPORATED,
Plaintiff-Appellant,

v.

UNITED STATES OF AMERICA, AND INTERSTATE COMMERCE COMMISSION,
Defendants-Appellees,

and

UNITED PARCEL SERVICE, INC.,
Intervening-Defendant-Appellee.

MOTION TO DISMISS APPEAL UNDER RULE 14(2) OF THE REVISED RULES OF THE SUPREME COURT OF THE UNITED STATES.

Now comes United Parcel Service, Inc., Intervening-Defendant-Appellee herein, and respectfully moves this Court pursuant to Rule 14(2) of the Revised Rules of the Supreme Court of the United States to dismiss the appeal in this action for non-prosecution and assigns therefor the following reason:

The fee for docketing the appeal has not been paid and the appeal has not been docketed in the Supreme Court

within sixty days after the filing of the notice of appeal as required by Rule 13(1) of the Revised Rules of the Supreme Court. No enlargement of the time for docketing has been granted.

BERNARD G. SEGAL,
IRVING R. SEGAL,
S. HARRISON KAHN,
JEROME J. SHESTACK,
Attorneys for Intervening-Defendant-Appellee.

Of Counsel:
SCHNADER, HARRISON, SEGAL & LEWIS,
1719 Packard Building,
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October 16, 1957.

AFFIDAVIT

STATE OF PENNSYLVANIA }
COUNTY OF PHILADELPHIA } *ss.:*

JEROME J. SHESTACK, being first duly sworn, says

1. The records of the United States District Court for the Southern District of New York show that notice of appeal from the judgment of the Court in Civil Action, Number 119-29, Railway Express Agency, Inc., et al. v. United States of America, et al. was filed on August 15, 1957.

2. I am informed by the Office of the Clerk of the Supreme Court of the United States that the fee for docketing the appeal has not been paid and the appeal which was noted had not been docketed in the Supreme Court as of 12:00 P. M. on October 16, 1957, which time is more than sixty days after the filing of notice to appeal.

3. Plaintiff as of October 16 failed to respond to notice from the Office of the Clerk of the Supreme Court of the United States of plaintiff's failure to complete the steps necessary for docketing.

4. The records of the United States District Court for the Southern District of New York and of the Office of the Clerk of the Supreme Court of the United States do not show that any application for enlargement of the time for docketing the case had been made.

5. A copy of the above Motion has this day been served upon all parties of record in this proceeding by mailing a copy thereof by prepaid registered mail.

/s/ JEROME J. SHESTACK.
Jerome J. Shestack.

Sworn to and subscribed before me this 16 day of October, 1957.

/s/ ERNESTINE G. LEWIS,
Notary Public.
My Commission expires: January 6, 1961.